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14 MEGAN ROUP and THE SCULPT SOCIETY, LLC

15 UNITED STATES DISTRICT COURT
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17 CENTRAL DISTRICT OF CALIFORNIA
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19 TRACY ANDERSON MIND AND
20 BODY, LLC, a Delaware limited
21 liability company; and T.A. STUDIO
22 NEW YORK LLC, a California limited
23 liability company,

24 Plaintiffs,

25 v.

26 MEGAN ROUP, an individual; and
27 THE SCULPT SOCIETY, LLC, a
28 California limited liability company,

Defendants.

Case No. 2:22-cv-04735-RSWL-E

Hon. Ronald S.W. Lew

**DEFENDANTS MEGAN ROUP
AND THE SCULPT SOCIETY,
LLC'S NOTICE OF MOTION AND
MOTION TO DISMISS
PLAINTIFFS' FIRST AMENDED
COMPLAINT AND SPECIAL
MOTION TO STRIKE (ANTI-
SLAPP)**

*[Filed Concurrently with Memorandum
of Points and Authorities in Support of
Motion to Dismiss Plaintiffs' First
Amended Complaint and Special Motion
to Strike (Anti-SLAPP); Declaration of
Nathaniel L. Bach; and [Proposed]
Order]*

Hearing Date: Nov. 1, 2022
Hearing Time: 10:00 a.m.
Location: TBD

Complaint Filed: July 11, 2022
FAC Filed: Sept. 13, 2022
Trial Date: Not yet set

TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on Tuesday, November 1, 2022, at 10 a.m., or as soon thereafter as counsel may be heard, in the courtroom of the Honorable Ronald S.W. Lew, located at 350 W. 1st Street, Suite 4311, Los Angeles, California 90012, Defendants Megan Roup (“Roup”) and The Sculpt Society, LLC (“The Sculpt Society” or “TSS”) (together, “Defendants”) will and hereby do respectfully move this Court for an order dismissing Plaintiffs Tracy Anderson Mind and Body, LLC (“TAMB”) and T.A. Studio New York LLC’s (“TANY”) (together, “Plaintiffs” or “Anderson”) First Amended Complaint (Dkt. 12, “FAC”) in its entirety and with prejudice, pursuant to Federal Rule of Civil Procedure 12(b)(6), and striking Plaintiffs’ claim for violation of California’s Unfair Competition Law (“UCL”), California Business & Professions Code §§ 17200, *et seq.* (Claim 4) pursuant to California’s anti-SLAPP statute, California Code of Civil Procedure § 425.16.

Defendants bring this Motion on the grounds that Plaintiffs fail to sufficiently plead their claims for violation of the Copyright Act, 17 U.S.C. §§ 106 and 501 (Claim 1); violation of the Lanham Act, 15 U.S.C. § 1125(a) (Claim 2); breach of contract (Claim 3); and violation of Business & Professions Code §§ 17200, *et seq.* (Claim 4). Because Plaintiffs’ claims are foreclosed as a matter of law and are incurable, the FAC should be dismissed with prejudice.

Defendants also bring this Motion under California Code of Civil Procedure § 425.16(b)(1) (the anti-SLAPP statute) to strike the portion of Plaintiffs’ UCL claim that is based on Roup’s autobiographical statements on the grounds that (1) it arises from acts in furtherance of Defendants’ right of free speech in connection with a public issue; and (2) Plaintiffs cannot demonstrate a probability of prevailing on their UCL claim as a matter of law (*i.e.*, under Rule 12(b)(6) review).

In addition to exchanging pre-motion correspondence regarding Plaintiffs’ claims, on September 9, 2022, the parties met and conferred pursuant to Local Rule 7-3, at which time defense counsel set forth the specific grounds on which Defendants

1 intended to move to dismiss and/or strike Plaintiffs' claims. Plaintiffs refused to
2 withdraw their claims, thus necessitating this Motion.

3 Defendants' Motion is based on this Notice of Motion and Motion, the
4 concurrently filed Memorandum of Points and Authorities, the concurrently filed
5 Declaration of Nathaniel L. Bach and all exhibits attached thereto, all papers on file
6 herein, and any argument, evidence, or judicially noticeable or other material that
7 may be presented to or considered by the Court prior to ruling.

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9 Dated: September 27, 2022

Respectfully submitted,

10 MANATT, PHELPS & PHILLIPS, LLP

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12 By: /s/ Nathaniel L. Bach

13 Nathaniel L. Bach

14 *Attorneys for Defendants*
15 MEGAN ROUP and THE SCULPT
16 SOCIETY LLC
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